

Notice of Allowability

Application No.

10/810,554

Examiner

/Ted Kavanaugh/

Applicant(s)

LABONTE, IVAN

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to response filed 5/23/2007.
2. ☒ The allowed claim(s) is/are 2-4, 6-21 and 23-26.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Marc Gagnon on July 5, 2007.

The application has been amended as follows:

Claims 1,5 and 22 are canceled.

In claim 2, line 1, "1" has been changed to -20--.

In claim 6, line 1, "5" has been changed to -4--.

In claim 20, line 6, the phrase --having a thickness less than the first and second sections to permit folding and-- has been inserted before "being located".

In claim 20, line 12, before the period ".", the following has been inserted --, wherein said second section comprises at least one flexing region for enabling said second section to expand laterally as it moves from said first position to said second position--.

In claim 23, line 1, "21" has been changed to -20--.

In claim 24, line 1, "24" has been changed to -23--.

The following new claim has been added:

26. (New) A skate boot for enclosing a foot of a player, the foot having a forefoot and a front ankle portion, said skate boot having a tongue and an ankle portion with upper eyelets, said tongue comprising:

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a) a first section covering the forefoot of the foot;

b) a second section connected to said first section via a flexing zone, said flexing zone having a thickness less than the first and second sections to permit folding and being located slightly above said upper eyelets and enabling said second section to be movable between a first position, in which said section covers a portion of the front ankle portion of the foot; and a second position, in which said second section overlaps a portion of said first section, wherein, in use, the player can fold said second section over said first section for wearing said boot with said tongue in said second position whereby further protection for a portion of the forefoot is provided, said tongue comprises a first layer attached to a second layer, said first and second layers being made out of foam, wherein said first layer comprises an inner surface facing the foot, said first layer having a first density, said second layer having a second density, said second density being greater than said first density.

2. The following is an examiner's statement of reasons for allowance:

The changes were made to the independent claims to distinguish that the flexing zone of reduced thickness is located slightly above said upper eyelets and further structure from claim 22 was also incorporated in claim 20 and further structure from claims 23 and 24 was incorporated in new claim 26 to overcome prior art that had shoe tongues that extend beyond the upper and fold over the laces to protect them.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

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accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

/Ted Kavanaugh/
Primary Examiner
Art Unit 3728

TK
July 5, 2007